

JAMES A. HEARD, State Bar No. 114940  
MARK L. MOSLEY, State Bar No. 136449  
MELANIE SENGUPTA, State Bar No. 244615  
MACKENZIE & ALBRITTON LLP  
155 Sansome Street, Suite 800  
San Francisco, CA 94104  
Telephone: (415) 288-4000  
Facsimile: (415) 288-4010  
Emails: [jheard@mallp.com](mailto:jheard@mallp.com)  
[mmosleyesq@gmail.com](mailto:mmosleyesq@gmail.com)  
[m.sengupta@mallp.com](mailto:m.sengupta@mallp.com)

Attorneys for Defendants SACRAMENTO-  
VALLEY LIMITED PARTNERSHIP, d/b/a  
VERIZON WIRELESS and GUILLIAM NEL

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
SACRAMENTO DIVISION

MONICA EISENSTECKEN, et al.,

Plaintiffs,

vs.

TAHOE REGIONAL PLANNING AGENCY, et  
al.,

Defendants.

Case No. 2:20-cv-02349-TLN-CKD

**NOTICE OF MOTION AND MOTION BY  
DEFENDANTS VERIZON WIRELESS  
AND GUILLIAM NEL TO DISMISS  
THIRD AMENDED COMPLAINT**

Date: September 22, 2022

Time: 2:00 p.m.

Courtroom: 2

Judge: Hon. Troy L. Nunley

1 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that on Thursday, September 22, 2022, at 2:00 p.m., or as soon  
3 thereafter as this motion may be heard, in the courtroom of the Honorable Troy L. Nunley, in the  
4 United States District Court for the Eastern District of California, located at 501 I Street,  
5 Courtroom 2, Sacramento, California, defendants Sacramento-Valley Limited Partnership, doing  
6 business as Verizon Wireless (“Verizon”), and Guillian Nel, will and hereby do move to dismiss  
7 the third amended complaint (ECF No. 60) (the “TAC”). This motion is brought on the grounds  
8 that plaintiffs’ claims are preempted by federal law, untimely, moot, and otherwise fail to state a  
9 plausible claim for relief. In addition, the TAC violates the requirement for a “short and plain  
10 statement of the claim” under Federal Rule of Civil Procedure 8.

11 This motion is made pursuant to Federal Rules of Civil Procedure 8, 12(b)(1), 12(b)(6),  
12 and 41(b), and is based on this Notice of Motion and Motion, the supporting brief filed herewith,  
13 any oral argument to be heard by the Court, matters as to which the Court takes judicial notice,  
14 and such other matters as the Court deems proper.

15 Pursuant to Federal Rule of Civil Procedure 12(g)(1), defendants Verizon Wireless and  
16 Guillian Nel join the motions to dismiss the TAC filed by Defendants Tahoe Regional Planning  
17 Agency, et al. (ECF No. 66) and the City of South Lake Tahoe (ECF No. 63-1), and all briefs,  
18 other materials, and arguments submitted in support of those motions.

19 Dated: July 25, 2022  
20

21  
22 MACKENZIE & ALBRITTON LLP

23  
24 /s/ James A. Heard  
25 JAMES A. HEARD  
26 Attorneys for Defendants  
27 SACRAMENTO VALLEY LIMITED  
28 PARTNERSHIP, d/b/a VERIZON WIRELESS  
and GUILLIAM NEL